



# B A S M A A

Alameda Countywide  
Clean Water Program

Contra Costa  
Clean Water Program

Fairfield-Suisun  
Urban Runoff  
Management Program

Marin County  
Stormwater Pollution  
Prevention Program

Napa County  
Stormwater Pollution  
Prevention Program

San Mateo Countywide  
Water Pollution  
Prevention Program

Santa Clara Valley  
Urban Runoff Pollution  
Prevention Program

Sonoma County  
Water Agency

Vallejo Sanitation  
and Flood  
Control District

October 6, 2011

Bruce Wolfe  
Executive Officer  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Subject: Amendment of the Municipal Regional Stormwater Permit for Special  
Development Projects, Biotreatment Soil, and Green Roof Specifications

Dear Mr. Wolfe:

On behalf of the NPDES stormwater permittee members of the Bay Area Stormwater Management Agencies Association (BASMAA)<sup>1</sup>, thank you for the opportunity to comment on the proposed amendment of the Municipal Regional Stormwater Permit (MRP) for Special Development Projects, Biotreatment Soil, and Green Roof Specifications (Notice of September 6, 2011). In addition to these comments approved for submittal on behalf of BASMAA, our member agencies may also be submitting their own comment letters reflecting their individual perspectives on the proposed amendment.

As you know, on December 1, 2010, BASMAA submitted a Special Projects Proposal in accordance with the original language of MRP Provision C.3.e.ii(2). Since that time, we have had discussions with your staff and other stakeholders regarding the content of this Proposal and worked together to further refine the LID treatment reduction credit concepts. We appreciate the efforts and time committed by your staff to work with us on approaches to meeting the C.3 requirements that protect water quality while recognizing the value and inherent environmental benefits of smart growth in the Bay Area.

BASMAA generally supports the proposed amendment that would allow Special Project LID treatment reduction credits, and provide Biotreatment Soil and Green Roof Specifications. However, we are concerned that the Tentative Order does not address the following situations described in our Special Projects Proposal where low impact development (LID) treatment is not always feasible:

1. Portions of development sites that are not being developed or redeveloped, but which must be retrofitted to meet treatment requirements in accordance with the "50% rule."
2. Addition of a traffic lane to an existing roadway within a limited right-of-way from which runoff cannot be directed to a landscaped area.

Bay Area

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Agencies Association

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<sup>1</sup> BASMAA is a 501(c)(3) non-profit organization comprised of the municipal stormwater programs in the San Francisco Bay Area representing 96 agencies, including 84 cities and 7 counties. BASMAA is focused on regional challenges and opportunities to improving the quality of stormwater that flows to our local creeks, San Francisco Bay and Delta, and the Ocean.

## BASMAA comments on Amendment of the Municipal Regional Stormwater Permit for Special Development Projects, Biotreatment Soil, and Green Roof Specifications

Accordingly, we request that the changes outlined in Attachment A to this letter be made to Tentative Order Provisions C.3.b.ii.(1)(c), C.3.b.ii.(3)(a), and C.3.b.ii.(4)(b) to address these special situations.

Another concern is related to the incorporation of the biotreatment soil specifications identified as Attachment I to the proposed MRP amendment. We recommended in the transmittal letter for the soil specifications dated December 1, 2010 that the biotreatment soil objectives (i.e., a minimum infiltration rate of 5 inches per hour and the ability to sustain vigorous, healthy plant growth and maximize stormwater runoff retention and pollutant removal) be included in the permit, but that the detailed specifications be referenced as guidance in order to allow room for experimentation and innovation with bioretention soils, as long as it is within the bounds of the minimum requirements needed to achieve effective stormwater treatment. We request that Attachment I be removed from the proposed MRP amendment (see Attachment A requested deletion in Provision C.3.c.i.(2)(b)(iv)) so that the specifications can be refined over time based on experience with bioretention installations and performance.

Finally, we believe there is an important clarification that needs to be made in the proposed amendment language for Provision C.3.e.ii.(1) for Special Projects. With the proposed language, the credits would only extend to the Category A Special Projects. We do not believe this is staff's intent and that the section reference error is a carry over from the 2009 MRP section numbers. Thus, C.3.e.ii.(1) should be modified as follows: in the 8th line, it should refer to "Provisions C.3.e.ii.(2),(3)&(4)" not just "Provision C.3.e.ii.(2)."

The main effect of the amendment, with these additions of LID treatment reduction credits that we request in Attachment A, will be to allow a narrowly defined and carefully selected set of development projects to select, as an option, non-LID methods of treatment. The overall effect will be, by our estimate, that LID treatment will be provided for roughly 90% or more of the aggregate impervious area created or replaced as part of development projects approved during the remaining MRP term. The remaining 10% or less of impervious area created or replaced will receive treatment by either vault-based media filtration or by higher-rate biofiltration in a tree-box-type unit. The permittees will carefully track the use of LID and non-LID treatment in development projects approved during the remaining MRP term.

At a regional scale, this proposed amendment to the MRP is an overwhelmingly positive outcome for advocates of LID. Up to now, regionally, the selection of LID as the BMP of choice has been inconsistently implemented. To achieve LID treatment for runoff from 90% or more of impervious area to be created or replaced beginning only two years after the MRP's 2009 adoption is extraordinarily ambitious. We encourage the Board to adopt the Tentative Order to include our requested 90% + approach and to recognize that for the remaining 10% or less of impervious area created or replaced that cannot accommodate LID treatment, other effective treatment methods will be employed (i.e., 100% of the runoff from such areas will receive treatment).

BASMAA comments on Amendment of the Municipal Regional Stormwater Permit for Special Development Projects, Biotreatment Soil, and Green Roof Specifications

Please contact me at (510) 670-6548 if you have any questions or would like to discuss our comments further.

Sincerely,

A handwritten signature in cursive script that reads "James Scanlin".

James Scanlin  
Chair, Bay Area Stormwater Management Agencies Association

Attachment A – Requested Changes

cc: Thomas Mumley, Assistant Executive Officer, San Francisco Bay Regional Water Board  
BASMAA Board of Directors

## Attachment A

Provision (following proposed amendment)	Requested Change	Reason for Request
C.3.b.ii.(1)(c) and C.3.b.ii.(3)(a).	Add the following underscored sentence: "Where a project results in an alteration of <b>more than 50 percent</b> of the impervious surface of a previously existing development that was not subject to Provision C.3, the entire project, consisting of all existing, new and/or replaced impervious surfaces, must be included in the treatment system design (i.e., stormwater treatment systems must be designed and sized to treat stormwater runoff from the entire development project). <u>100% of the amount of runoff identified in Provision C.3.d. for the new and replaced impervious surfaces must be treated with LID treatment measures. 100% of the amount of runoff identified in Provision C.3.d. for existing impervious surfaces must be treated with LID treatment measures, except where the use of LID treatment measures would require significant alterations to existing structures, paving, or walkways that would not otherwise occur. In such cases, other treatment methods may be used.</u> "	Although the change affects a fraction of 1% of the aggregate impervious area subject to Provision C.3., it provides needed flexibility for certain projects subject to the "50% rule" and avoids the scenario where a "smart growth" development project is killed because of inability to comply.

Provision (following proposed amendment)	Requested Change	Reason for Request
C.3.b.ii.(4)(b)	Add the following underscored sentence: "Widening of existing streets and roads with additional traffic lanes. <u>100% of the amount of runoff identified in Provision C.3.d. for the existing impervious surfaces must be treated with LID treatment measures except where the use of LID treatment measures is infeasible because the drainage from the additional traffic lanes cannot be routed to vegetated areas. In such cases, other treatment methods may be used.</u> "	Although the change affects a fraction of 1% of the aggregate impervious area subject to Provision C.3., it provides flexibility that may be needed for certain roadway projects.
C.3.c.i.(2)(b)(vi)	Delete the last sentence, which states "Permittees shall ensure that Regulated Projects use biotreatment soil media that meet the minimum specifications set forth in Attachment I."	Attachment I, which should also be deleted, goes too far in specifying the means and methods by which compliance shall be achieved. Such specificity is redundant to the requirement that soil media "sustain healthy, vigorous plant growth and maximize stormwater runoff retention and pollutant removal," which is also included in Provision C.3.c.i.(2)(b)(vi). Inclusion of the restrictive specification in Attachment I will stifle innovation and experimentation which could lead to soil mixes that treat stormwater more effectively.